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Deposition of:

P.J. Tanner

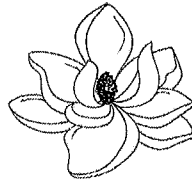
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Nelson
v.
BCSO, et al

Case #: 9:18-CV-2962-DCN-BM

August 24, 2020

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1 circumstances to actually go outside of the chain of
2 command to report incidents of harassment or other
3 workplace discrimination directly to OPR?

4 A. Yeah. I mean, there's -- there's a lot of
5 avenues for our deputies to make, you know, claims of
6 discrimination or any other claim. I mean, there are
7 opportunities galore with that. And I would not
8 consider that a violation of policy because they went
9 outside their chain of command, if they were looking
10 for relief and didn't feel like they could find a
11 relief in-house. But I have an open-door policy with
12 all of my staff. And they understand and know that my
13 door is always open, and they can -- all of my contact
14 information is on our recall roster. They have any
15 opportunity to contact me if they're uncomfortable with
16 contacting someone else within the organization.

17 Q. Has that happened?

18 A. Sure. Absolutely.

19 Q. With regard -- with regard to racial
20 discrimination?

21 A. No.

22 Q. With regard to sexual discrimination?

23 A. No.

24 Q. So Brian Baird has been the head of OPR since
25 around 2011 or '12, right?

1 A. I think we start -- we started using him for
2 internal affairs investigations -- we had three --
3 2010, 2011.

4 Q. And he told us last week when we talked with
5 him that he's never heard of an instance of workplace
6 harassment at Beaufort County. Does that sound right
7 to you?

8 A. Well, I mean, if it did not rise to his
9 level, then he may not know about it. I mean, I can't
10 speak for Brian. I'm just responding to your question.

11 Q. Okay. But would you -- would you say that
12 there's never been an incident of workplace harassment
13 at Beaufort County since 2010 or '11?

14 MS. LOHR: Object to the form.

15 BY MS. BLAZER:

16 A. I don't recall. But I can't -- you know, I'm
17 not speaking for Brian. But I don't recall any claims
18 of any kind of workforce harassment coming to me
19 with -- anytime -- anytime recently, so...

20 Q. Okay.

21 A. I'm actually trying to remember if there were
22 any. Brian would know if it went to an internal
23 affairs investigation. But if it was -- if it was a,
24 you know, command officer review or inquiry, he may not
25 know about it.

1 A. I'm sorry. There's two brothers, so -- I
2 mean, you can definitely tell them apart.

3 Q. Right.

4 A. But everybody has nicknames, and everyone
5 gets attached to nicknames. But we're going to talk
6 about Big Pru, which is James Prusinowski?

7 Q. That's right, going to talk about Big Pru.
8 And Big Pru is nicknamed justly, right? He's the
9 bigger of the Prusinowskis?

10 A. He is. He's definitely the bigger one.

11 Q. Okay. Now, Prusinowski's had -- you know, I
12 don't -- I don't -- actually, let's see. When did
13 Prusinowski -- do you know when Prusinowski became a
14 member of the sheriff's office?

15 A. I rehired him a year ago.

16 Q. Okay. But before that -- I mean, he'd
17 been -- he'd been around for a while because I've
18 got -- I've got disciplinary records going back to
19 2012; does that sound right?

20 A. You know, I'd have to go back and look at
21 them. I don't -- I don't know.

22 Q. Okay.

23 A. I don't recall. I only recall two situations
24 involving him. I mean, whatever the other stuff was
25 didn't -- didn't reach my level.

1 Q. Yeah, I mean, some of it looks pretty minor,
2 you know, car accident-type stuff.

3 A. Yeah. Well, I mean, all of those are written
4 up the same way.

5 Q. Right.

6 A. It's just most -- a lot of them don't make it
7 to me unless it's something serious.

8 Q. Well, would it be something serious if
9 somebody got a reprimand and a rank loss?

10 A. I mean, it depends on the situation. Can
11 you -- can you -- is that something you're showing on
12 the screen now?

13 Q. You should be able to see it. If you look at
14 this disciplinary action form, can you see that it
15 says, James Prusinowski at the top?

16 MS. LOHR: Hold on a second. We might could
17 turn this computer around.

18 MS. BLAZER: Okay.

19 (Discussion held off the record.)

20 BY MS. BLAZER:

21 A. I can -- I can read it a little bit better
22 when I stand right here at the screen. What, exactly,
23 are you asking on?

24 Q. Okay. So we're talking about -- the
25 violation is personal conduct unbecoming. Is that what

1 you see at the top of the page there?

2 A. I do.

3 Q. Okay. And if I look at the supervisor's
4 comments it says that he should be placed on a
5 probationary status for 12 months. Then, when you look
6 at the branch commander's remarks, he agrees and
7 recommends that Prusinowski get counseling for marital
8 issues. Do you see that?

9 A. Yeah. And you're talking about -- which one
10 are you talking about now? Was it -- is it Morrison,
11 or are we down to Baxley?

12 Q. I was looking at -- I was looking at what I
13 believe Horton had said, and then -- but next, after
14 Horton was Morrison who said that the branch captain's
15 remarks were appropriate. Then next we get to Baxley,
16 whom recommends a reduction to PFC. And he writes, A
17 corporal is expected to be a veteran officer,
18 trustworthy, and capable of guiding and leading younger
19 troops. Prusinowski's blatant attempt to mislead his
20 supervisor violates this.

21 Do you know what he's talking about there?

22 A. I do not. But that's not unusual for -- for
23 Colonel Baxley.

24 Q. What do you mean?

25 A. I mean, he -- he can get -- he can exaggerate

1 a little bit and get a little overzealous in some of
2 his comments.

3 Q. Okay. So you would just assume, on the basis
4 of who's making the comment, that it's an overzealous
5 representation of what Prusinowski did?

6 A. No. It had to be based on connectivity with
7 that officer as well. I mean, Colonel Baxley is our
8 emergency management director for the sheriff's office.
9 And I don't know that he's ever supervised -- well, I
10 can pretty well say he has never supervised Jason
11 Prusinowski or knows anything about his work ethic or
12 conduct on a regular basis. But the other managers on
13 that page would have direct knowledge of Prusinowski's
14 work record.

15 Q. Okay. But do you think that Baxley would
16 just pull out of thin air the claim that Prusinowski
17 had attempted to mislead his supervisor?

18 A. You would have to ask him that question. I
19 just know that, you know, his comments on there in
20 relation to the other people that work with
21 Prusinowski.

22 Q. Uh-huh.

23 A. His recommend -- the recommendation that he
24 made was not accepted.

25 Q. Understood. Okay. So I think -- correct me

1 if I'm wrong -- that that's the last significant issue
2 that Prusinowski had prior to 2018. Does that sound
3 right to you?

4 A. You're asking me to remember something like
5 that, and I -- the answer is, I don't know. If you've
6 got a particular question about another case --

7 Q. Well, if -- do you agree with me that --

8 A. I don't even know what year that is. I can't
9 even see the writing on that.

10 Q. That was 2012.

11 A. All right. So now you're asking is there's
12 something that happened between '12 and '17?

13 Q. No, I was -- I was saying that the next time
14 Prusinowski had any kind of issue was in 2018; does
15 that sound right?

16 A. Unless you've got -- I mean, I'm going to
17 have to assume that you're not trying to mislead me.
18 And if you've got another --

19 Q. I appreciate that.

20 A. If you've got another incident that happened
21 between those dates, I'm sure you'll share it with me.

22 Q. I do. I don't have a PCS or -- I don't have
23 a disciplinary form for it, but I do have media records
24 that indicate that in 2018 Prusinowski was arrested for
25 CDV. Do you recall that?

1 A. By Bluffton P.D., yes.

2 Q. Yes, sir. And you'd agree with me that a CDV
3 charge is -- would be a serious problem for a law
4 enforcement officer?

5 A. If you committed the crime, yes.

6 Q. Right. And --

7 A. But if you didn't, no.

8 Q. Agree. And you would agree with me that your
9 agency conducted an inquiry into the incident that was
10 parallel to the inquire by Bluffton?

11 A. I don't know if they were parallel. I think
12 Bluffton pretty well did their investigation that
13 night. And, you know, of course, our -- our review or
14 inquire or OPR investigation would have taken a lot
15 longer than just that night to make a determination or
16 a decision.

17 Q. Right. Because --

18 A. But I might add that I think those charges
19 against Prusinowski were dropped and dismissed.

20 Q. I think you're right. And -- and I think
21 you're -- you're right, that your investigation -- your
22 OPR investigation took longer because -- correct me if
23 I'm wrong. In that case, I believe it was Captain
24 Averill who conducted the IA.

25 A. I don't remember.

1 Q. Okay. You don't have any independent
2 recollection that that's what happened?

3 A. I mean, I know the nuts and bolts of, you
4 know, what happened during the case. But as -- I don't
5 remember who did the OPR investigation.

6 Q. Okay. But if I told you it was Averill, you
7 don't have a reason to believe that that's anything
8 other than true?

9 A. I don't have any reason to believe that you
10 would lie to me or mislead me.

11 Q. It would be pretty silly. So -- and would
12 you agree with me that in the course of that
13 investigation -- internal affairs investigation,
14 Prusinowski was polygraphed?

15 A. I would -- I assume so.

16 Q. Okay. Because in -- in a he-said, she-said
17 kind of situation, that's the sort of situation where
18 IA is likely to conduct a polygraph?

19 A. And it was probably a statement verification.

20 Q. Okay. And you know that Lieutenant Baird
21 conducted that polygraph?

22 A. I'm -- based on what you're telling me, I'll
23 believe you. Go ahead.

24 Q. Are you aware that your lawyer commissioned
25 an expert report to evaluate the polygraphs conducted

1 by your agency?

2 A. That my lawyer?

3 Q. Yes, sir.

4 A. Okay. Talking about Mary?

5 Q. Yes, sir.

6 A. About that case?

7 Q. About a series of polygraphs conducted in
8 internal affairs investigations.

9 A. For a series? Now -- now, let me answer that
10 question as easy as I can. No, I'm not aware that
11 Mary --

12 Q. Okay.

13 A. -- asked for an expert.

14 THE WITNESS: Now we can move on to the next
15 because I didn't know you did.

16 BY MS. BLAZER:

17 A. But, okay. If she did, she did.

18 Q. Okay. I think I know the answer to my next
19 question that I had written down, which is, have you
20 looked at that report?

21 A. I have not.

22 Q. Okay. So then you -- you don't know that
23 your expert says that Baird gave Prusinowski a passing
24 score when his reaction should have more accurately
25 been classified as inconclusive?

1 testimony is -- is pretty accurate. But if I told you
2 that the expert that the county hired in this case said
3 Averill and Baird are wrong, does that cause you any
4 heartache?

5 A. Depends on what they're wrong about.

6 Q. They're wrong that he passed.

7 A. I wish I was -- knew enough about the
8 polygraph to respond to that, but --

9 Q. Okay.

10 A. -- I don't.

11 Q. In reviewing for today's deposition, did you
12 have the chance to review any of the video of
13 Prusinowski's polygraph?

14 A. I did not.

15 Q. Okay.

16 MS. BLAZER: Mary Ann -- and this has
17 previously been made an exhibit in another deposition,
18 but, Mary Ann, would you please play -- I'll tell
19 you -- it's the only video.

20 (Discussion held off the record.)

21 (A brief recess was taken.)

22 (Video played.)

23 BY MS. BLAZER:

24 Q. So, Sheriff, I assume that's the first time
25 you've ever seen that video?

1 performance evaluations. So he was turned down for
2 promotion.

3 Q. But you didn't see this when you were
4 chairing his board?

5 A. No, because I don't vote. I chair the board.

6 Q. Okay. All right. And so you don't know if
7 he had to be polygraphed in relation to this incident?

8 A. I do not.

9 Q. Okay. And he's a white male?

10 A. He is.

11 Q. Okay. Let's talk about Roper. Do you recall
12 that an incident in which -- in which Roper, who I
13 believe is -- I don't know -- I don't know Deputy
14 Roper's rank, I apologize. But Deputy Roper didn't
15 report it when his service weapon went missing?

16 A. Deputy Roper is a major within the sheriff's
17 office in our admin division.

18 Q. Okay.

19 A. I know he had a weapon stolen out of his
20 vehicle. And part of his punishment was, he had to
21 reimburse the county for the cost of his weapon.

22 Q. How long did it take for him to report that
23 weapon being missing?

24 A. I don't know. That was -- that was handled
25 by -- by his supervisor. I think it was Colonel Brown

1 at the time.

2 Q. Okay. So you say that the service weapon was
3 stolen out of his -- was it an unmarked car?

4 A. I was an unmarked vehicle, yes. I think he
5 had some personal stuff stolen as well.

6 Q. Uh-huh. Is there a policy that says how long
7 you have to report a service weapon going missing?

8 A. I don't -- I don't recall it exactly being
9 part of the policy, no. I think it's common sense.

10 Q. Right. Common sense is, that's a big deal
11 and you report it right away, right?

12 A. I mean, it would be common sense once you
13 determine that your -- that your firearm has been
14 stolen, you need to report it.

15 Q. Right.

16 A. But I don't know -- I don't know the
17 circumstances surrounding his vehicle break-in. I
18 don't know, was it hours, days or whatever before it
19 was reported?

20 Q. Uh-huh. What about -- Roper is not only
21 deputy to have had a service weapon go missing, is
22 he?

23 A. No. My chief deputy, Mike Hatfield, did too.

24 Q. Tell me about that.

25 A. He had it stolen out of his car.

1 Q. When was that?

2 A. I don't remember the dates. I can get that
3 information for you, but I don't remember the dates.
4 It's been -- it was around the same time that Major
5 Roper had his gun stolen.

6 Q. Uh-huh. Was -- was -- do you recall if
7 Hatfield's vehicle was secured at the time that the
8 firearm was stolen?

9 A. Being -- being secured and damaged is two
10 different things. But I don't recall damage to the
11 vehicle.

12 Q. Okay. Well, I guess what I'm asking is, when
13 the vehicle was -- had the service weapon taken out of
14 it, was Hatfield's vehicle locked?

15 A. I don't know, but there was no damage to the
16 vehicle.

17 Q. Okay. All right. I see what you're saying.
18 So we can infer that it was not locked if there was no
19 damage to it?

20 A. We can infer that it was locked and
21 there's -- I mean, there are ways to get in locked cars
22 without causing damage.

23 Q. Fair enough. All right. How long was it
24 between when the service weapon went missing and when
25 Hatfield reported it missing?

1 A. I don't recall.

2 Q. What discipline, if any, did Hatfield face
3 after the service weapon went missing?

4 A. He had to reimburse the county for the cost
5 of the weapon. And I believe there was some probation
6 time. Same with Roper.

7 Q. Okay. O'Neill -- sorry.

8 A. Oh, and by the way, Mike Hatfield and Major
9 Roper are both white males.

10 Q. Thanks.

11 Do you recall an incident in which Patrick
12 O'Neill was -- had a complaint filed against him by a
13 woman who alleged that he had sex with her while he was
14 on duty?

15 A. I vaguely remember. I don't remember the
16 details, but I remember a complaint made against
17 Patrick O'Neill, yes.

18 Q. Do you recall whether that complaint was
19 substantiated or not?

20 A. Do not.

21 Q. If it -- if Patrick O'Neill had sex with a
22 woman while he was on duty, would that be a violation
23 of any general order?

24 A. If, in fact, it happened, it would be.

25 Q. Okay. What would -- what would be an